

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the Register after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 5. DEPARTMENT OF HEALTH SERVICES - CHILD CARE FACILITIES

PREAMBLE

- 1. Sections Affected**
R9-5-516
- Rulemaking Action**
Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statutes: A.R.S. §§ 36-136(F), 36-883, and 36-883.04
Implementing statute: A.R.S. § 36-883(A)
- 3. The effective date of the rules:**
August 17, 2000
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 6 A.A.R. 1087, March 24, 2000
Notice of Proposed Rulemaking: 6 A.A.R. 1608, May 5, 2000
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Kathleen Phillips, Rules Administrator
Address: Department of Health Services
1740 West Adams, Suite 102
Phoenix, Arizona 85007
Telephone: (602) 542-1264
Fax: (602) 542-1290
or
Name: Lourdes Ochoa, Program Manager
Assurance and Licensure Services
Office of Child Care Licensure
Address: 1647 East Morten, Suite 230
Phoenix, Arizona 85020
Telephone: (602) 674-4220
Fax: (602) 861-0674
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
More and more children are being diagnosed with life-threatening allergies or have a history of severe allergic reactions. If a child with a severe allergy to peanuts is exposed to peanuts, the child may go into anaphylactic shock which, if not immediately treated, can close the child's airways. A child in anaphylactic shock needs an immediate injection of epinephrine or a similar medication to prevent loss of consciousness, coma, and death. Although R9-5-516 allows a health care provider who is a state board licensed individual to give an injection to an enrolled child at a child care facility, A.R.S. §§ 32-1421 (A)(1) and 32-1631(2) allow an unlicensed individual to provide medical assistance in an emergency. The Department plans to amend R9-5-516 to clarify that in an emergency, an unlicensed individual may give an injection to an enrolled child at a child care facility.

7. A reference to any study that the agency relied on in its evaluation of or justification for the final rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

Not applicable

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

The Department will incur minimal costs promulgating the rule amendment. The rule amendment will not have an economic impact on the public or the regulated community but will clarify that in an emergency, A.R.S. §§ 32-1421 (A)(1) and 32-1631(2) allow an unlicensed individual to give an injection to an enrolled child in a child care facility. This will help create a safer environment in child care facilities for enrolled children with life-threatening allergies or a history of severe allergic reactions.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules:

To clarify the rule, the Department made the following nonsubstantive changes:

Changed the term “child” to the term “enrolled child” throughout the rule except in the phrase “out of reach of children”.

Revised subsection (C) as follows: “A health care provider authorized by state law to give injections may give injections to an enrolled child. In an emergency, an individual may give an injection to an enrolled child according to A.R.S. §§ 32-1421(A)(1) and 32-1631(2).”

11. A summary of the principal comments and the agency response to them:

Not applicable

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

Not applicable

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 5. DEPARTMENT OF HEALTH SERVICES - CHILD CARE FACILITIES

ARTICLE 5. FACILITY PROGRAM AND EQUIPMENT

Section

R9-5-516. Medications

ARTICLE 5. FACILITY PROGRAM AND EQUIPMENT

R9-5-516. Medications

A. A licensee shall ensure that a written statement is prepared and maintained on facility premises that specifies whether prescription or nonprescription medications are administered to enrolled children. If prescription or nonprescription medications are administered, the written statement shall contain provisions explaining that:

1. A facility director, or a staff member designated in writing by the facility director, is responsible for the administration of all medications in the facility, including storing, supervising a an enrolled child's ingestion of a medication, and recording all medications administered to a an enrolled child. A facility director shall ensure that only 1 staff member in the facility at any given time is responsible for the administration of medications.
2. A facility director, or a staff member designated in writing by the facility director, shall not permit the administration of a medication to a an enrolled child unless the facility receives written authorization signed by the enrolled child's parent or health care provider that includes the:
 - a. First and last name of the enrolled child;
 - b. No change.
 - c. No change.
 - d. No change.
 - e. No change.

- f. No change.
- 3. A staff member shall:
 - a. No change.
 - b. Administer a nonprescription medication provided by a parent for a an enrolled child only from a container pre-packaged and labeled for use by the manufacturer and labeled with the enrolled child's name; and
 - c. No change.
- B.** A licensee shall allow a an enrolled child to receive an injection only after obtaining written authorization from a physician. ~~Only those health care providers authorized by state law to give injections are permitted to give injections to an enrolled child.~~ A licensee shall maintain the physician's written injection authorization on facility premises for 12 months from the date of the authorization.
- C.** A health care provider authorized by state law to give injections may give an injection to an enrolled child. In an emergency, an individual may give an injection to an enrolled child according to A.R.S. §§ 32-1421 (A)(1) and 32-1631(2)
- CD.** A licensee shall maintain a written record of all medication administered to an enrolled child.
 - 1. The record shall contain:
 - a. The 1st and last name of the enrolled child;
 - b. No change.
 - c. No change.
 - d. The signature of the staff member who administered the medication to the enrolled child.
 - 2. No change.
- DE.** A licensee shall return all unused prescription and nonprescription medications to a parent when the medication prescription date has expired or the medication is no longer being administered to the enrolled child or dispose of the medication if unable to locate the enrolled child's parent after the enrolled child's disenrollment.
- EF.** A licensee shall ensure that prescription and nonprescription medications are stored as follows:
 - 1. ~~A~~ An enrolled child's medication is kept in a locked, leakproof storage cabinet or container that is used only for storing enrolled children's medications and is located out of reach of children.
 - 2. Medication for a staff member is kept in a locked, leakproof storage cabinet or container that is separate from the storage container for enrolled children's medications and is located out of reach of children; and
 - 3. No change.
- FG.** No change.